

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department – Erstwhile Warangal District - Revision Petition filed by Sri Mulkapally Kumaraswamy S/o Chandraiah and (2) others R/o Narsampet (V) & (M), Waranagal District against the orders of the Additional Agent to Government, Eturunagaram, in case No LTR/Appeal/6/2005, dated 28.02.2006 and the Special Deputy Collector (Tribal Welfare), Eturunagaram in Case No.A/LTR/88/1/2004, dated 18.06.2005 – Revision Petition Dismissed - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 72

Dated: 29-12-2023.
Read the following:-

1. Orders of Special Deputy Collector (Tribal Welfare), Eturunagaram in Case No.A/LTR/88/1/2004, dated 18.06.2005.
2. Orders of the Additional Agent to Government & Project Officer, ITDA, Eturunagaram in case No LTR/Appeal/6/2005, dated 28.02.2006.
3. Revision Petition of Sri Mulkapally Kumaraswamy S/o.Chandraiah and (2) others R/o.Narsampet (V) & (M) Waranagal District, dated 17.04.2006.
4. Govt.Memo. & D.O.Lr.No.4192/LTR-2/2006, dated 22.06.2006, 21.02.2007 28.04.2007, 12.09.2008, 22.06.2009, 06.05.2010,
5. Govt. Lr.No.4192/TW.LTR-2/2006, dated 12.09.2008, 15.06.2017 09.02.2018, 21.04.2018, 17.05.2018.17.07.2018, 26.11.2019.
6. Original records received from the Additional Agent to Government, Eturunagaram, and the Special Deputy Collector (Tribal Welfare), Eturunagaram.

ORDER:-

In the reference 3rd read above, Sri Mulkapally Kumaraswamy S/o.Chandraiah and (2) others R/o.Narsampet (V) & (M), Erstwhile Warangal District has filed Revision Petition before the Government on 17.04.2006 through their Counsel against the orders of the Additional Agent to Government, Eturunagaram, in case No LTR/Appeal/6/2005, dated 28.02.2006 and the Special Deputy Collector (Tribal Welfare), Eturunagaram in Case No.A/LTR/88/1/2004, dated 18.06.2005 in respect of immovable property situated in Sy.No.117/1/532 admeasuring acs.3.00 in Rajupet agency village of Narasmpet Mandal of Warangal District.

2. The history of the case is that the Nava Bharath Banjara Youth Association, Rajupet village of Narsampet Mandal of Warangal District have filed representation stating that in Rajupet schedule village, the non-tribal people are construction Rice Mills on benami names of tribals making money like changing names of tribes every five years in contravention of L.T.R. Act – Sri Mulkapally Kumaraswamy, S/o.Chandraiah R/o.Narsampet (V) & Mandal, a non-tribal held a land in Sy.No.117/1/532 extent 3.00 acres dry area wherein M/s. Sri Sai & Sai Sri Industries (Rice Mill) represented by Smt.Gonela Sarojana, W/o.Ravinder, Manging Partner and Sri Y.Vidyasagar S/o Veeraswamy, Partner, R/o.Narsampet village & Mandal, a non-tribal is in possession and enjoyment of the said immovable property.

3. As there was reason to believe that transfer of immovable property had taken place in contravention of Sub-Section (1) of Section (3) of APSA LTR 1/59 (as amended by APSALTR 1 of 1970), the Special Deputy Collector (Tribal Welfare), Eturunagarm had initiated proceedings under Land Transfer Regulation I of 1959 as amended by Regulation I of 1970 vide LTR case No.A/LTR/88/1/2004 between the parties viz., Mulkapally Kumaraswamy, Narsampet as Transferor (Non-Tribal) and M/s. Sri Sai & Sai Industries Rice Mills represented by Smt. Gonela Sarojana W/o.Ravinder, Managing Partner & Y.Vidhya Sagar S/o Veeraswamy, Partner, Narsampet village & Mandal as Transferee (Non-Tribal), LTR/Appeal/6/2005. The Special Deputy Collector (TW), Eturunagaram after conducting detailed enquiries/hearings, disposed the case on 18.06.2005 in the reference 1st cited with the following findings:

(P.T.O)

- i) The husband of transferee i.e. Gonela Ravinder S/o Sammaiah present on 2.5.2005, 8.6.2005 and deposed that in Sy.No.117/1/532 an extent of ac.3.00 were assigned to Mulkapally Kumaraswamy R/o Narsampet who is his brother-in-law. About 16 years back, they have constructed one rice mill. Subsequently, M.Kumaraswamy withdrawn his partnership due to differences. Thereafter, he has constructed another rice mill during the year 1999 with name and style Sri Sai & Sai Sri Industries and Smt.Gonela Sarojana as Managing Partner with the partnership of Sri Yata Vidhyasagar and Yakaiah. They have obtained all the requisite permissions from the concerned authorities and not aware of Land Transfer Regulation Act. They have submitted the following documents.
- a) Construction permission by Gram Panchayat Secretary.
 - b) Certificate of Registration of A.P.G.S.T.
 - c) Pahani extract of 1994-95 of Sy.No.117/1/532.
 - d) Power release certificate issued by Addl. Asst. Engineer, Narsampet.
 - e) Application form for SSI Unit.
 - f) Firm Registration.
 - g) Certificate from Factories Department.
 - h) Fire Safety Certificate.
 - i) AP Schedule Commodities Dealer (L&D) Order, 1982.
- ii) On verification of the record i.e. Pahani, the Sy.No.117/1/532 having extent of 3.00 acres was assigned to Mulkapally Kumaraswamy R/o Narsampet. During enquiry, Smt.Gonela Sarojana W/o Ravinder has constructed rice mill in the name and style "Sai Sri & Sri Sri Industries" with the partnership of Sri Yata Vidhyasagar and Yakaiah in the year 1999.
- ii) According to "Section 2 (g) of A.P.Scheduled Area Land Transfer Regulation, 1959 as amended in 1970 transfer means mortgage with or without possession, lease, sale, gift, exchange or any other dealing with the immovable property, not being a testamentary disposition and includes a change on such property or a contract relating to such property in respect of such mortgage, lease, sale, gift, exchange or other dealing".
- iv) The Hon'ble Supreme Court in its Civil Appeal No.1601, 1602 and 1603 of 1997 decided on 11.7.1997 in Samatha Vs State of AP and others clarified the word person denoted in Section 3 (1) of Regulation includes the State Government. The State Government also stands to prohibit transfer by way of lease or any other form known to law.
- v) From the above, it is established that Smt.Gonela Sarojana W/o Ravinder has constructed Rice Mill in contravention of Section 3 (1) (a) of LTR 1/59 as amended in 1970 which prohibits transfer of immovable property between non-tribals in agency area and therefore, liable for ejectment.
- vi) Accordingly, exercising powers conferred under Section 3 (2) (a) of the Regulation, it was ordered that the land and immovable property in M/s. Sri Sai & Sai Sri Industries along with sheds, machinery etc. in Sy.No.117/1/532 to an extent of 3.00 acres situated in Rajupet village of Narsampet Mandal should be resumed in favour of Government by Mandal Revenue Officer, Narsampet for eventual assignment made in favour of the ST Society registered or deemed to be registered under AP Cooperative Societies Act, 1964 which is composed solely of members of Scheduled Tribes by conducting panchanama.

(Contd...3)

4. Aggrieved by the above orders, Sri Mulkapally Kumaraswamy S/o Chandraiah R/o Narsampet village & Mandal, Smt.Gonela Sarojana W/o Ravinder and Y.Vidyasagar S/o Veeraswamy, Partners of M/s. Sri Sai & Sai Sri Industries (Rice Mill) had filed Appeal before the Additional Agent to Government & Project Officer, ITDA Eturunagaram which was numbered as LTR/Appeal/6/2005 and disposed on 28.02.2006 confirming orders of the Special Deputy Collector (TW), Eturunagaram in case No.A/LTR/88/1/2004, dated 18.6.2005.

5. Aggrieved by the above orders of the appellate authority, the revision petitioners viz., 1) Mulkapally Kumaraswamy S/o Chandraiah R/o Narsampet village and Mandal, Warangal District; 2) Smt.Gonela Sarojana, Managing Partner, M/s.Sri Sai & Sai Industries (Rice Mill), R/o Narsampet village and Mandal, Warangal District and 3) Y.Vidyasagar S/o Veeraswamy, R/o Narsampet village and Mandal have filed the present Revision Petition before the Government on 17.4.2006 urging the following grounds:

- i) The orders passed by both the Courts below are bad in law and contrary to the material on record.
- ii) The order passed by the lower and appellate court are liable to be set aside on the ground of violation of principles of natural justice as no reasons were assigned in dismissing the Appeal.
- iii) The lower and appellate courts failed to appreciate the grounds raised in the Appeal. The lower and appellate courts did not decide the case on its merits and no reasons of whatsoever nature assigned in dismissing the Appeal.
- iv) The Courts below ought to have seen that the petitioner has raised specific grounds in the Grounds of appeal stating inter-alia that the provisions of Regulation I of 1959 has no application since the land where the rice mill was constructed is not located in the scheduled area.
- v) Further Courts below ought to have seen that there is no transfer of land to attract the provisions of Section 3 of Regulation I of 1959. As such the proceedings initiated by the original authority i.e. the 1st respondent is liable to be set aside. Even if it is assumed that there was transfer affected prior to 1970, such provisions of Section 3 of Regulation I of 1959 have no application.
- vi) Both the courts erred in appreciating the material on record and also failed to appreciate the contentions/grounds raised by the petitioner and erroneously passed the ejectment order.

6. In the reference 4th read above, Government, while communicating copy of the Revision Petition to the Collector, Warangal and Project Officer, ITDA Eturunagaram, requested to send para-wise remarks and connected case record and further informed that pending disposal of the Appeal, further action on proceedings No.LTR/Appeal/6/2005, dated 28.2.2006 of Addl. Agent to Government are stayed until further orders.

7. In the reference 5th read above, Govt. issued notices and the case was called on;

- 24.09.2008 - Adjourned for next hearing
- 15.07.2017 - Son of Revision petitioner has attended the hearing and sought for adjournment. Adjourned for next hearing and advised to file written arguments.
- 03.03.2018 - Adjourned to 28.04.2018 and directed to file written Arguments.
- 28.04.2018 - Revision Petitioner/Respondents called absent. Adjourned to 26.05.2018.
- 26.05.2018 - Both parties called absent. Adjourned and issue notices both parties with Ack. due.
- 07.12.2019 - Revision Petitioner called present.

(Contd...4)

8. Perused the record of both lower and appellate courts. The Revision Petitioners herein failed to prove their possession of immovable property situated in Sy.No.117/1/532 admeasuring acs.3.00 in Rajupet agency village of Narasmpet Mandal. Except the documents related to construction of Rice Mill like permission, power connection etc. they have not filed any piece of documentary evidence before the lower, appellate authorities and also before the Government. The Revision Petition is pending since 17.4.2006 i.e. for more than (17) years.

9. Government, after careful examination of the matter do not find any valid reason to interfere with the orders passed by the lower and appellate authorities i.e. Special Deputy Collector (Tribal Welfare), Eturunagaram in case No.A/LTR/88/1/2004, dated 18.06.2005 and Additional Agent to Government, Eturunagaram in case No LTR/Appeal/6/2005, dated 28.02.2006 respectively, and accordingly confirmed them duly DISMISSING the Revision Petition filed by Sri Mulkapally Kumaraswamy and (2) others R/o Narsampet (V) & (M), Warangal District.

10. The Additional Agent to Government & Project Officer, Eturunagaram, Mulugu District shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr.CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The Additional Agent to Government,
Eturunagaram, Mulugu District (By RPAD)
The Special Deputy Collector,
Eturunagaram, Mulugu District (By RPAD)
Sri Mulkapally Kumaraswamy S /o Chandraiah
R/o Narsampet (V)& (M) Warangal District. (By RPAD)
M/s. Sri Sai & Sai Sri Industries (Rice Mill),
Represented by Gonela Sarojana, W/o.Ravinder,
R/o Narsampet (V)& (M) Warangal District. (By RPAD)
Sri Y.Vidya Sagar, S/o.Veeraswamy,
R/o Narsampet (V)& (M) Warangal District. (By RPAD)
Sri A.Prabhakar Rao & M.Durga Prasad, Advocates,
Plot No.252 A, Opp:SBI MLA Colony,
Road No.12, Banjara hills, Hyderabad – 34.

Copy to:-

The Agent to Government and District Collector, Warangal District.
The Tahsildar, Narsampet (M), Khammam District (By RPAD)
(With a direction to serve the copy of GO to concerned parties).

The P.A to Secretary (TW)
The P.A to Special Secretary (TW).
SC/SF.

//FORWARDED::BY ORDER//

SECTION OFFICER